

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4797 of 1981

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MISRIMULLA JUHARMULLA

Versus

CHHATRASINGH J VASAVA

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Appearance:

MR RN SHAH for Petitioner

MR SN SHELAT for Respondent No. 1

UNSERVED for Respondent No. 2

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 20/06/96

ORAL JUDGEMENT

Heard the learned counsel for the parties.  
Challenge is made by the petitioner in this special civil application to the order of the Gujarat Revenue Tribunal passed in Revision Petitions No: 293 of 1979 and 294 of 1979 as well as the orders made in Review Petitions No. 23/80 and 24/80.

2. Learned Tribunal has, under the impugned order passed in the aforesaid two revision petitions, remanded the matter back to the Assistant Collector for decision on the question whether even if in civil litigation the landlord has lost his right, the tenancy created during the pendency of the litigation is valid or not. On this question of deemed tenancy, the matter has been remanded back. The Tribunal further directed the Assistant Collector to decide the matter within three months of receipt of the papers. The petitioner was not satisfied with the judgment given in the revision application and he filed review application. The Tribunal has considered the review application, but the same has also been dismissed.

3. After going through the judgment given by the Tribunal in the revision applications as well as in the review applications I do not find any error apparent on the face of the order which calls for interference of this court sitting under Article 227 of the constitution of India. It is a case where only remand order has been made and both the parties have sufficient opportunity to lead their evidence on the question which is remanded. In such matter normally the court should not interfere as the rights of the parties have not been finally adjudicated. Taking into consideration the totality of the facts of the case, this writ petition deserves to be dismissed. However, looking to the fact that the matter is sufficiently old enough, it is expected of the Assistant Collector concerned to decide the matter within time bound program as directed by the Tribunal under its order dated 24th April, 1980 passed in Revision Application Nos. TEN.B.A.293 and 294 of 1979.

4. In the result, subject to the aforesaid observation, the writ petition is dismissed. Rule discharged. Interim relief stands vacated.

(sd/- S.K.KESHOTE, J.)